

**Remarks**

Claims 1-20 were pending in the application. Claims 10-20 were cancelled without prejudice or disclaimer. Claims 1 and 2 have been amended to more fully recite features of the present invention. No new matter has been introduced. Thus, claims 1-9 are submitted for reconsideration at this time.

Applicant thanks the Examiner for acknowledging receipt of the priority documents in the pending application.

Applicant also thanks the Examiner for reviewing the references cited by Applicant.

**Allowable Subject Matter**

Applicant acknowledges with appreciation the indication of allowable subject matter in claims 3-9. Claims 3-9 are dependent upon claim 1, and believed to be allowable for at least the following reasons with respect to claim 1, in addition to the further patentable features recited therein. Allowance of claims 3-9 is solicited.

**Rejections 35 U.S.C. § 102(e)**

Claim 1 stands rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Publication No. 2004/0210729 ("Horii" hereafter). Applicant respectfully traverses this rejection for at least the following reasons.

Horii is not available as prior art under 35 U.S.C. § 102(e). Specifically, as stated in MPEP § 706.02(a) (When Examining PG-PUB Applications) (emphasis added), "An international application is prior art under 35 U.S.C. 102(e) only if (1) the international application designated the United States, (2) the international application was published under PCT Article 21(2)(a) in English, (3) the international application was filed on or after November 29, 2000, and (4) the international application entered the national stage as to the United States." Horii is the published national stage application of PCT application no. PCT/JP02/05641. In order for Horii to be asserted against the pending application, the Office Action must apply Horii's PCT date which is prior to the pending application's filing date. However, PCT/JP02/05641 was originally filed in Japanese, and published in Japanese with only an English language abstract. As such, PCT/JP02/05641 does not satisfy the second requirement

specified in MPEP § 706.02(a), and Horii cannot be extended back to its PCT priority date under 35 U.S.C. § 102(e). See also MPEP § 2136.03(II) (Continuation Of An International (PCT) Application; International Application Publication). Thus, Horii is not available as prior art against the pending application.

Given Horii's unavailability under 35 U.S.C. § 102(e), withdrawal of the rejection over Horii is solicited.

### **Rejections 35 U.S.C. § 103(a)**

Claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Horii in view of U.S. Patent No. 5,668,974 ("Grassi" hereafter). As noted above, Horii is not available as prior art under 35 U.S.C. § 102(e) as cited. Thus, the rejection under 35 U.S.C. § 103(a) is traversed for similar reasons as asserted above with respect to claim 1. Withdrawal of the rejection over Horii in view of Grassi is solicited.

### **CONCLUSION**

In view of the above amendment and remarks, Applicant respectfully requests that all objections and rejections be withdrawn and that a notice of allowance be forthcoming. The Examiner is invited to contact the undersigned representative for Applicant for any reason related to the advancement of this case.

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Respectfully submitted,

  
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